



**Periodic Review / Retain Regulation
Agency Background Document**

Agency name	Virginia Department of Labor and Industry
Virginia Administrative Code (VAC) citation	16 VAC 25-75
Regulation title	General Industry Standard for Telecommunications, General, Approach Distances
Document preparation date	October 13, 2011

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

The Safety and Health Codes Board is authorized by Title 40.1-22(5) to: "... adopt, alter, amend, or repeal rules and regulations to further, protect and promote the safety and health of employees in places of employment over which it has jurisdiction and to effect compliance with the federal OSH Act of 1970...as may be necessary to carry out its functions established under this title."

"In making such rules and regulations to protect the occupational safety and health of employees, the Board shall adopt the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence that no employee will suffer material impairment of health or functional capacity".

"However, such standards shall be at least as stringent as the standards promulgated by the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws."

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such

alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

There is no viable alternative to this regulation because the establishment of less stringent compliance requirements directly resulted in fatal electrocution hazards for employees. This regulation makes telecommunications requirements identical to 16 VAC 25-90-1910.269(1)(2)(i), General Industry Standard for Electric Power Generation Transmission and Distribution, and provides safety protections for telecommunications workers equal to those afforded general industry electrical transmission workers and construction industry workers (see 16 VAC 25-155), which simplifies compliance requirements for all workers performing the same or similar tasks regardless of the type of industry in which they work.

For the reasons noted above, this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

There were no comments during the Public Comment Period. The agency did not establish an informal advisory group for the purpose of assisting in the periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation is necessary for the protection of public health, safety, and welfare.

The regulation is clearly written and easily understandable.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency recommends that the regulation remain in effect without change.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

There is a continued need for this regulation because the establishment of less stringent compliance requirements directly resulted in fatal electrocution hazards for employees. The regulation is not unnecessarily complex. It ensures uniformity of the regulations for General Industry, Construction, and Telecommunication workers performing the same type of electrical transmission work. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation.

The current review is the first periodic review to evaluate the regulation. There have not been significant changes in technology, economic conditions, or other factors in the area affected by the regulation since it became effective.

The agency has determined that retaining the regulation without amendment is consistent with the stated objectives of applicable law and is the most effective way to minimize the economic impact of regulations on small businesses. Prior to the promulgation of this regulation, employers were already required to train telecommunication electrical transmission workers on methods of de-energizing, isolating, or insulating themselves from live electrical parts by using blankets or other protective measures listed in 16 VAC 25-90-1910.268. This regulation simplified compliance by making telecommunications requirements identical to 16 VAC 25-90-1910.269(1)(2)(i), General Industry Standard for Electric Power Generation Transmission and Distribution, and by providing safety protections for telecommunications workers equal to those afforded general industry electrical transmission workers and construction industry workers (see 16 VAC 25-155). In compliance with federal law, the regulation does not exempt small businesses from all or any part of these requirements. However, the language of the regulation was drafted in such a way as to minimize costs for regulated employers while still ensuring equivalent safety levels of electrical shock protection for telecommunications workers.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

This regulation has a positive impact on the institution of the family and family stability by ensuring that workers are less likely to be injured or killed while engaged in work on power lines, thereby resulting in fewer disruptions to the family income and family life from work-related accidents or deaths.